

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ERIC YOUNG,

Plaintiff,

v.

Case No. 11-12780

CITY OF HIGHLAND PARK, et al.,

Defendants.

ORDER ON JURY INSTRUCTIONS

Trial of this matter is currently set for March 4, 2013. The parties and the court have been engaged in a series of communications regarding jury instructions. This order and the attachment constitute the court's rulings (without prejudice in several areas) on the parties' reactions.

Plaintiff submitted an email response to the court's proposed instructions. The court has considered Plaintiff's response, and has made some changes to the court's intended instructions, but rejects Plaintiff's objections in other areas.

In order to preserve Plaintiff's concerns, Plaintiff's response and the court's reaction to the response, sustaining some points and rejecting others for reasons stated therein, all attached as an exhibit to this order. The court is not persuaded that changes to the instructions beyond those noted are warranted.

In addition, the court notes but rejects Defendants' single emailed objection to the instructional concept of committing a Constitutional excessive force violation referred to in the instructions as "bystander liability." Defendants note correctly that this theory of liability was not specifically pleaded in the complaint, but the court nonetheless finds that adequate notice has been provided of Plaintiff's liability theory as to those

officers whom he acknowledges did not physically deal with him. The court has been informed that Defendants also seek an equality-of-treatment instruction vis a vis the municipal corporation, and such a comment is certainly due without any further argument or support. Such an instruction will be provided—likely more than once—to the jury.

IT IS SO ORDERED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: February 28, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 28, 2013, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522